REMARKS

An Office Action was mailed on February 24, 2005. Claims 1 – 17 are pending in the present application. Applicants cancel claim 2 without prejudice or disclaimer, amend claims 1, 3 – 11, 13, 15, and 17, and add new claims 18 – 20. No new matter is introduced. .

REJECTION UNDER 35 U.S.C. § 101

Claims 11 and 13 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter ("a computer program"). Applicants amend claims 11 and 13 to recite "A computer system ... including a computer program for operating said computer system". Applicants submit that the claimed "computer system" constitutes statutory matter, and respectfully request that the rejection be withdrawn.

REJECTION UNDER 35 U.S.C. §§ 102, 103

Claims 1 – 15 and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,892,900 to Ginter et al. Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginter. Applicants cancel claim 2 without prejudice or disclaimer, amend claims 1, 3 – 11, 13, 15, and 17, add new claims 18 – 20, and respectfully traverse these rejections.

In amended independent claim 1, for example, Applicants disclose:

1. A method executed in a computer system for monitoring a utilization condition of contents, wherein said computer system is provided on a network to which a user terminal is allowed to connect, said user terminal carrying out information processing by utilizing said contents, comprising the steps of:

equipping information gathering means on the network;

registering authentication information on a database;

embedding digital information in said contents, said digital information causing

said user terminal to automatically transmit a contents utilizing history indicating a utilizing condition of the contents to said information gathering means at a predetermined timing;

distributing said contents to said user terminal, wherein said user terminal includes a memory medium in which authentication information identical to said registered authentication information is included, and wherein said terminal is authenticated by said authentication information in the memory medium;

gathering, according to the digital information included in the distributed contents, said contents utilizing history via said information gathering means which is automatically transmitted from the user terminal;

recording the gathered contents utilizing history, in correspondence with said registered authentication information, in the database; and

creating utilizing information indicating how much the particular content is utilized, based on recorded data in the database.

(Emphasis added)

Ginter discloses a method and system for secure transaction management and electronic rights protection (see, e.g., abstract of Ginter). The system of Ginter includes means for monitoring usage of distributed content (see, e.g., description of "usage metering" at column 17, line 42 to column 18, line 5 of Ginter).

According to the method of Ginter, a virtual distribution environment (VDE) is installed on each physical device to which content is distributed (see, e.g., column 15, lines 10 – 34 of Ginter). This VDE "core" is responsible for providing content management functions such as usage auditing. In sharp contrast to the method of Ginter, Applicants' claimed method provides a means for embedding digital information within the distributed digital contents that is effective to cause a contents utilizing history to be prepared and transmitted by a user terminal receiving distributed contents (see, e.g., page 18, line 27 – page 19, line 30 of Applicants' specification). Applicants' claimed method based on embedded digital information ("middleware") enables content usage monitoring to be performed by a variety of user terminal platforms, without

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requiring the installation of a specific content management software as in the case of Ginter. Accordingly, Applicants respectfully submit that the method as taught in amended independent claim 1 is not anticipated by Ginter, and that amended independent claim 1 is therefore allowable.
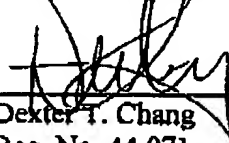
As independent claims 6, 11, 13, 15 and 17 each include limitations providing for the generation of a contents utilizing history at a user terminal based by means of information embedded in the digital content distributed to the user terminal, Applicants reapply the above arguments in regard to claims 6, 11, 13, 15 and 17, and submit that claims 6, 11, 13, 15 and 17 are also allowable. As claims 3- 5, 7 – 10, 12, 14, 16 and 18 – 20 each depend from one of allowable independents claims 1, 6, 11, 13, 15 and 17, Applicants respectfully submit that claims 3- 5, 7 – 10, 12, 14, 16 and 18 – 20 are allowable for at least this reason.

CONCLUSION

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that claims 1 – 20, which include independent claims 1, 6, 11, 13, 15 and 17, and the claims that depend therefrom, stand in condition for allowance. Passage of this case to allowance is earnestly solicited. However, if for any reason the Examiner should consider this application not to be in condition for allowance, he is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

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Any fee due with this paper may be charged on Deposit Account 50-1290.

Respectfully submitted,

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